## House Study Bill 2

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HOUSE RESOLUTION NO. BY (PROPOSED COMMITTEE ON ETHICS 1 RESOLUTION BY CHAIRPERSON MILLER) 4 A Resolution relating to the House code of ethics.
5 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, That the 6 House Code of Ethics shall be as follows: HOUSE CODE OF ETHICS

PREAMBLE. Every legislator and legislative employee has a 1 1 8 9 duty to uphold the integrity and honor of the general 1 10 assembly, to encourage respect for the law and for the general 1 11 assembly, and to observe the house code of ethics. The 1 12 members and employees of the house have a responsibility to 1 13 conduct themselves so as to reflect credit on the general 14 assembly, and to inspire the confidence, respect, and trust of 15 the public. The following rules are adopted pursuant to 1 15 the public. 1 16 chapter 68B of the Code, to assist the members and employees 1 17 in the conduct of their activities: 1. DEFINITIONS. The definitions of terms provided in 1 19 chapter 68B of the Code apply to the use of those terms in 1 20 these rules. ECONOMIC INTEREST OF MEMBER OR EMPLOYEE OF HOUSE. 21 2. Economic or investment opportunity. A member or 1 2.2 1 23 employee of the house shall not solicit or accept economic or 24 investment opportunity under circumstances where the member or 1 25 employee knows, or should know, that the opportunity is being 1 26 afforded with the intent to influence the member's or 27 employee's conduct in the performance of official duties. 1 28 a member or employee of the house learns that an economic or 1 29 investment opportunity previously accepted was offered with 1 30 the intent of influencing the member's or employee's conduct 31 in the performance of the official duties, the member or 32 employee shall take steps to divest that member or employee of 33 that investment or economic opportunity, and shall report the 34 matter in writing to the chairperson of the house ethics 1 35 committee. b. Excessive charges for services, goods, or property 2 interests. A member or employee of the house shall not charge to or accept from a person known to have a legislative 2 4 interest, a price, fee, compensation, or other consideration 2 5 for the sale or lease of any property or the furnishing of 2 6 services which is in excess of that which the member or employee would ordinarily charge another person. c. Use of confidential information. A member or employee 2 9 of the house, in order to further the member's or employee's 2 10 own economic interests, or those of any other person, shall 2 11 not disclose or use confidential information acquired in the 2 12 course of the member's or employee's official duties. For the 2 13 purpose of this rule, information disclosed in open session at 2 14 a public meeting under chapter 21 of the Code and information 2 15 that is a public record under chapter 22 of the Code is not 2 16 confidential information. 2 17 d. Employment. A mem Employment. A member or employee of the house shall 2 18 not accept employment, either directly or indirectly, from a 2 19 political action committee. A member of the house shall not 2 20 act as a paid lobbyist for any organization. However, this 2 21 paragraph shall not prohibit a member or employee of the house 22 from working for a candidate's committee, a political party's 23 action committee, or a political action committee which does

2 28 assembly.
2 29 For the purpose of this rule, a political action committee
2 30 means a committee, but not a candidate's committee, which
2 31 accepts contributions, makes expenditures, or incurs
2 32 indebtedness in the aggregate of more than seven hundred fifty
2 33 dollars in any one calendar year to expressly advocate the
2 34 nomination, election, or defeat of a candidate for public
2 35 office or to expressly advocate the passage or defeat of a
3 1 ballot issue or for the purpose of influencing legislative
3 2 action.

24 not expressly advocate the nomination, election, or defeat of 25 a candidate for public office in this state or expressly

26 advocate the passage or defeat of a ballot issue in this state 27 and which is not interested in issues before the general

A member or employee of the house shall not solicit 4 employment on behalf of the member or employee, or on behalf 5 of another legislator or employee, as a lobbyist while the 6 general assembly is in session.

f. Certain goods or services. A member or employee of the 8 house shall not solicit or obtain goods or services from 3 9 another person under circumstances where the member or 3 10 employee knows or should know that the goods or services are 3 11 being offered or sold with the intent to influence the 12 member's or employee's conduct in the performance of official 13 duties. If a member or employee of the house is afforded 3 14 goods or services by another person at a price that is not 3 15 available to other members or classes of members of the 3 16 general public or is afforded goods or services that are not 3 17 available to other members or classes of members of the 3 18 general public by another person where the member or employee 19 knows or should know that the other person intends to 3 20 influence the member's or employee's official conduct, the 3 21 member or employee shall not take or purchase the goods or 3 22 services.

- 3. APPEARANCE BEFORE STATE AGENCY. A member or employee 3 24 of the house may appear before a state agency in any 3 25 representation case but shall not act as a lobbyist with 3 26 respect to the passage, defeat, approval, veto, or 3 27 modification of any legislation, rule, or executive order. 3 28 Whenever a member or employee of the house appears before a 29 state agency, the member or employee shall carefully avoid all 30 conduct which might in any way lead members of the general 3 31 public to conclude that the member or employee is using the 3 32 member's or employee's official position to further the 33 member's or employee's professional success or personal 34 financial interest.
- CONFLICTS OF INTEREST. In order for the general 4. 1 assembly to function effectively, members of the house may be required to vote on bills and participate in committee work 3 which will affect their employment and other areas in which 4 they may have a monetary interest. Action on bills and 5 committee work which furthers a member's specific employment, 6 specific investment, or other specific interest, as opposed to 7 the interests of the public in general or the interests of a 8 profession, trade, business, or other class of persons, shall 9 be avoided. In making a decision relative to a member's 4 10 activity on particular bills or in committee work, the 4 11 following factors should be considered:
- Whether a substantial threat to the member's 4 13 independence of judgment has been created by the conflict 4 14 situation.

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- 4 15 b. The effect of the member's participation on public 4 16 confidence in the integrity of the general assembly.
  - c. Whether the member's participation is likely to have
- 4 18 any significant effect on the disposition of the matter.
  4 19 d. The need for the member's particular contribution, such 4 20 as special knowledge of the subject matter, to the effective 4 21 functioning of the general assembly.

If a member decides not to participate in committee work or 4 23 to abstain from voting because of a possible conflict of 4 24 interest, the member should disclose this fact to the 25 legislative body. The member shall not vote on any question 26 in which the member has an economic interest that is 4 27 distinguishable from the interests of the general public or a 28 substantial class of persons.

- 5. STATUTORY REQUIREMENTS. Members and employees of the 4 30 house shall comply with the requirements contained in chapters 31 68B (Conflicts of Interest of Public Officers and Employees), 4 32 721 (Official Misconduct), and 722 (Bribery and Corruption), 4 33 and sections 2.18 (Contempt) and 711.4 (Extortion) of the 34 Code.
  - 35 CHARGE ACCOUNTS. Members and employees of the house 6. shall not charge any amount or item to a charge account to be paid for by a lobbyist or any client of a lobbyist.
  - 7. TRAVEL EXPENSES. A member or employee of the house shall not charge to the state of Iowa amounts for travel and 5 expenses unless the member or employee actually has incurred 6 those mileage and expense costs. Members or employees shall 7 not file the vouchers for weekly mileage reimbursement 8 required by section 2.10, subsection 1 of the Code, unless the 9 travel expense was actually incurred.

A member or employee of the house shall not file a claim 10 for per diem compensation for a meeting of an interim study 12 committee or a visitation committee unless the member or

 $5\ 13\ \text{employee}$  attended the meeting. However, the speaker may waive

5 14 this provision and allow a claim to be filed if the member or 5 15 employee attempted to attend the meeting but was unable to do 5 16 so because of circumstances beyond the member's or employee's 5 17 control.

- 8. GIFTS ACCEPTED OR RECEIVED. Members and employees of 5 19 the house shall comply with the restrictions relating to the 5 20 receipt or acceptance of gifts contained in section 68B.22 of 21 the Code.
  - 9. HONORARIA RESTRICTIONS. Members and employees of the 23 house shall comply with the restrictions relating to the 24 receipt of honoraria contained in section 68B.23 of the Code.
- 10. DISCLOSURE REQUIRED. Each member of the house and the 5 26 chief clerk of the house shall file the personal financial 5 27 disclosure statements required under section 68B.35 of the 5 28 Code by February 15 of each year for the prior calendar year.
- SEXUAL HARASSMENT. Members and employees of the house 30 shall not engage in conduct which constitutes sexual 31 harassment as defined in section 19B.12 of the Code or 5 32 pursuant to the sexual harassment policy adopted by the house 33 committee on administration and rules.
  - COMPLAINTS. 12.

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- Filing of complaint. Complaints may be filed by any a. 1 person believing that a member or employee of the house, a lobbyist, or a client of a lobbyist is guilty of a violation 3 of the house code of ethics, the house rules governing 4 lobbyists, or chapter 68B of the Code.
- b. Complaints by committee. The ethics committee may initiate a complaint on its own motion. Committee complaints 7 may be initiated by the committee as a result of a committee 8 investigation or as a result of receipt of any complaint or 6 9 other information that does not meet the requirements of these 6 10 rules regarding the form of a complaint but that contains 6 11 allegations that would form the basis for a valid complaint.
- Form and contents of complaint. A complaint shall be c. 6 13 in writing.

Complaint forms shall be available from the chief clerk of 6 15 the house, but a complaint shall not be rejected for failure 16 to use the approved form if it complies with the requirements 6 17 of these rules. The complaint shall contain a certification 6 18 made by the complainant, under penalty of perjury, that the 6 19 facts stated in the complaint are true to the best of the 6 20 complainant's knowledge.

- To be valid, a complaint shall allege all of the following:
  (1) Facts, that if true, establish a violation of a
  provision of chapter 68B of the Code, the house code of 6 24 ethics, or house rules governing lobbyists for which penalties or other remedies are provided.
  - (2) That the conduct providing the basis for the complaint occurred within three years of the filing of the complaint.
  - (3) That the party charged with a violation is a party
  - 29 subject to the jurisdiction of the ethics committee.
    30 d. Confidentiality of complaint. The filing of the 31 complaint and the contents of the complaint shall be 32 confidential until the time that the committee meets to 33 determine whether the complaint is valid, unless either the 34 complainant or the party charged in the complaint makes the 35 existence of, or the information contained in, the complaint 1 public. However, if either the complainant or party alleged 2 to have committed the violation requests that the meeting to 3 determine whether the complaint is valid be a closed meeting 4 and the filing of the complaint or the contents of the 5 complaint have not been disclosed, the meeting shall be 6 closed.
- Notice of complaint. Upon receipt of the complaint, 8 the chief clerk of the house shall promptly notify the chairperson and ranking member of the ethics committee that a 10 complaint has been filed and provide both the chairperson and 11 the ranking member with copies of the complaint and any 12 supporting information. Within two working days, the chief 13 clerk shall send notice, either by personal delivery or by 14 certified mail, return receipt requested, to the person or 15 persons alleged to have committed the violation, along with a 7 16 copy of the complaint and any supporting information. 17 notice to the accused person shall contain a request that the 18 person submit a written response to the complaint within ten 19 working days of the date that the notice was sent by the chief At the request of the accused person, the committee 21 may extend the time for the response, not to exceed ten 22 additional calendar days.
- f. Hearing regarding validity of complaint. The committee 7 24 chairperson and the ranking member shall review the complaint

7 25 and supporting information to determine whether the complaint 7 26 meets the requirements as to form. If the complaint is 7 27 deficient as to form, the complaint shall be returned to the 28 complainant with instructions indicating the deficiency unless 7 29 the committee decides to proceed on its own motion. 30 complaint is in writing and contains the appropriate 31 certification, as soon as practicable, the chairperson shall 32 call a meeting of the committee to review the complaint to 33 determine whether the complaint meets the requirements for 34 validity and whether the committee should request that the 35 chief justice of the supreme court appoint an independent special counsel to conduct an investigation to determine 8 8 2 whether probable cause exists to believe that a violation of 3 the house code of ethics, house rules governing lobbyists, or 4 chapter 68B of the Code, has occurred. 8 8

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If the committee finds that a complaint does not meet the 6 content requirements for a valid complaint, the committee shall dismiss the complaint and notify both the complainant 8 and the party alleged to have committed the violation of the 9 dismissal and the reasons for dismissal. A dismissal for 8 10 failure to meet the formal requirements for the filing of a 8 11 complaint shall be without prejudice and the complainant may 8 12 refile the complaint at any time within three years of the 8 13 date that the alleged violation took place. If the dismissal 8 14 is based upon a failure to allege facts and circumstances 8 15 necessary for a valid complaint, the dismissal shall be with 8 16 prejudice and the party shall not be permitted to file a 8 17 complaint based upon the same facts and circumstances.

Request for appointment of independent special counsel. g. 8 19 If, after review of the complaint and any response made by the 8 20 party alleged to have committed the violation, the committee 8 21 determines that the complaint meets the requirements for form 8 22 and content, the committee shall request that the chief 23 justice of the supreme court appoint independent special 24 counsel to investigate the matter and determine whether 8 25 probable cause exists to believe that a violation of chapter 8 26 68B of the Code, the house code of ethics, or the house rules

27 governing lobbyists has occurred. h. Receipt of report of independent special counsel. 8 29 report from the independent special counsel regarding probable 30 cause to proceed on a complaint shall be filed with the chief 31 clerk of the house. Upon receipt of the report of the 8 32 independent special counsel, the chief clerk shall notify the 33 chairperson of the filing of the report and shall send copies 34 of the report to the members of the ethics committee. 35 as practicable after the filing of the report, the chairperson 1 shall schedule a public meeting for review of the report. 2 purpose of the public meeting shall be to determine whether 3 the complaint should be dismissed, whether a formal hearing 4 should be held on the complaint, or whether other committee 5 action is appropriate. The complainant and the person alleged 6 to have committed the violation shall be given notice of the 7 public meeting, shall have the right to be present at the 8 public meeting, and may, at the discretion of the committee, present testimony in support of or against the recommendations 9 10 contained in the report.

If the committee determines that the matter should be 9 12 dismissed, the committee shall cause an order to be entered 9 13 dismissing the matter and notice of the dismissal shall be 9 14 given to the complainant and the party alleged to have 9 15 committed the violation. If the committee determines that the 9 16 complaint should be scheduled for formal hearing, the 9 17 committee shall issue a charging statement which contains the 18 charges and supporting facts that are to be set for formal 19 hearing and notice shall be sent to the complainant and the 9 20 accused person.

The notice shall include a statement of the nature of the 22 charge or charges, a statement of the time and place of 23 hearing, a short and plain statement of the facts asserted, 24 and a statement of the rights of the accused person at the 25 hearing.

Formal hearing. Formal hearings shall be public and 27 conducted in the manner provided in section 68B.31, subsection 28 8 of the Code. At a formal hearing the accused shall have the 29 right to be present and to be heard in person and by counsel, 30 to cross=examine witnesses, and to present evidence. Members 31 of the committee shall also have the right to question 32 witnesses.

Evidence at the formal hearing shall be received in 33 34 accordance with rules and procedures applicable to contested 9 35 cases under chapter 17A of the Code.

The committee chairperson, or the vice chairperson or 2 ranking member in the absence of the chairperson, shall 3 preside at the formal hearing and shall rule on the 4 admissibility of any evidence received. The ruling of to the schairperson may be overturned by a majority vote of the The ruling of the 6 committee. Independent special counsel shall present the The burden evidence in support of the charge or charges. shall be on the independent special counsel to prove the 9 charge or charges by a preponderance of clear and convincing 10 10 evidence. Upon completion of the formal hearing, the 10 11 committee shall adopt written findings of fact and conclusions 10 12 concerning the merits of the charges and make its report and 10 13 recommendation to the house. 10 14

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- j. Recommendations by the committee. The committee shall recommend to the house that the complaint be dismissed, or 10 16 that one or more of the following be imposed:
- 10 17 (1) That the member or employee of the house or lobbyist 10 18 or client of a lobbyist be censured or reprimanded, and the 10 19 recommended appropriate form of censure or reprimand be used.
- That the member of the house be suspended or expelled (2) 10 21 from membership in the house and required to forfeit the 10 22 member's salary for that period, the employee of the house be 10 23 suspended or dismissed from employment, or that the lobbyist's 10 24 or lobbyist's client's lobbying privileges be suspended. 10 25 13. COMMUNICATIONS WITH ETHICS COMMITTEE. After a
- 10 26 complaint has been filed or an investigation has been 10 27 initiated, a party to the complaint or investigation shall not 10 28 communicate, or cause another to communicate, as to the merits 10 29 of the complaint or investigation with a member of the 10 30 committee, except under the following circumstances:
- a. During the course of any meetings or other official 10 32 proceedings of the committee regarding the complaint or 10 33 investigation.
- b. In writing, if a copy of the writing is delivered to 10 35 the adverse party or the designated representative for the adverse party.
  - c. Orally, if adequate prior notice of the communication is given to the adverse party or the designated representative for the adverse party.
  - d. As otherwise authorized by statute, the house code of ethics, house rules governing lobbyists, or vote of the committee.
- 14. PERMANENT RECORD. The chief clerk of the house shall 9 maintain a permanent record of all complaints filed and any 11 10 corresponding committee action. The permanent record shall 11 11 prepared by the ethics committee and shall contain the date 11 12 the complaint was filed, name and address of the complainant 11 13 name and address of the accused person, a brief statement of 11 14 the charges made, any evidence received by the committee, any 11 15 transcripts or recordings of committee action, and ultimate 11 16 disposition of the complaint. The chief clerk shall keep each 11 17 complaint confidential until public disclosure is made by the 11 18 ethics committee.
- 15. MEETING AUTHORIZATION. The house ethics committee is 11 20 authorized to meet at the discretion of the committee 11 21 chairperson in order to conduct hearings and other business 11 22 that properly may come before it. If the committee submits a 11 23 report seeking house action against a member or employee of 11 24 the house or lobbyist after the second regular session of a 11 25 general assembly has adjourned sine die, the report shall be 11 26 submitted to and considered by the subsequent general 11 27 assembly.
  - ADVISORY OPINIONS.
- a. Requests for formal opinions. A request for a formal 11 30 advisory opinion may be filed by any person who is subject to 11 31 the authority of the ethics committee. The ethics committee 11 32 may also issue a formal advisory opinion on its own motion, 33 without having previously received a formal request for an 34 opinion, on any issue that is within the jurisdiction of the 11 35 committee. Requests shall be filed with either the chief clerk of the house or the chairperson of the ethics committee.
- Form and contents of requests. A request for a formal 3 advisory opinion shall be in writing and may pertain to any 4 subject matter that is related to application of the house 5 code of ethics, the house rules governing lobbyists, or 6 chapter 68B of the Code to any person who is subject to the authority of the ethics committee. Requests shall contain one 8 or more specific questions and shall relate either to future conduct or be stated in the hypothetical. A request for an 12 10 advisory opinion shall not specifically name any individual or 12 11 contain any other specific identifying information, unless the

12 12 request relates to the requester's own conduct. However, any 12 13 request may contain information which identifies the kind of 12 14 individual who may be affected by the subject matter of the 12 15 request. Examples of this latter kind of identifying 12 16 information may include references to conduct of a category of 12 17 individuals, such as but not limited to conduct of 12 18 legislators, legislative staff, or lobbyists.
12 19 c. Confidentiality of formal requests and opinions. 12 20 Requests for formal opinions are not confidential and any 12 21 deliberations of the committee regarding a request for a
12 22 formal opinion shall be public. Opinions issued in response
12 23 to requests for formal opinions are not confidential, shall be 12 24 in writing, and shall be placed on file in the office of the 12 25 chief clerk of the house. Persons requesting formal opinions 12 26 shall personally receive a copy of the written formal opinion 12 27 that is issued in response to the request.
12 28 17. PERSONAL FINANCIAL DISCLOSURE FORM. 12 28 17. PERSONAL FINANCIAL DISCLOSURE FORM. The following 12 29 form shall be used for disclosure of economic interests under 12 30 these rules and section 68B.35 of the Code: 12 31 STATEMENT OF ECONOMIC INTERESTS (Middle Initial) 12 34 Address:\_ (Street Address, Apt.#/P.O. Box) 12 35 13 13 (City) (State) This form is due each year on or before February 15. The 13 5 6 reporting period is the most recently completed calendar year.
13 7 In completing Division III of this form, if your percentage
13 8 of ownership of an asset is less than 100 percent, multiply 13 9 your percentage of ownership by the total revenue produced to 13 10 determine if you have reached the \$1,000 threshold.
13 11 Do not report income received by your spouse or other 13 12 family members. In completing this form, if insufficient space is provided 13 13 13 14 for your answer, you may attach additional information/answers 13 15 on full=size sheets of paper. 13 16 Division I. Business, Occupation, Profession. 13 17 List each business, occupation, or profession in which you 13 18 are engaged, the nature of the business if not evident, and 13 19 your position or job title. No income threshold or time 13 20 requirement applies. 13 21 Examples: 13 22 If you are employed by an individual, state the name of the 13 23 individual employer, the nature of the business, and your 13 24 position. 13 25 If you are self=employed and are not incorporated or are 13 26 not doing business under a particular business name, state 13 27 that you are self=employed, the nature of the business, and 13 28 your position. If you own your own corporation, are employed by a 13 29 13 30 corporation, or are doing business under a particular business 13 31 name, state the name and nature of the business or corporation 13 32 and your position. 13 33 1 13 34 13 35 14 14 14 14 4 Division II. Commissions from Sales of Goods or Services to 14 5 Political Subdivisions. 14 6 This part is to be o 6 This part is to be completed only by Legislators. If you 7 received income in the form of a commission from the sale of 14 14 8 goods or services to a political subdivision, state the name 9 of the purchasing political subdivision. The amount of 14 10 commission earned is not required to be listed. 14 11 14 12 14 13 14 14 4 14 15 5\_ 14 16 6 14 17 Division III. Sources of Gross Income. 14 18 In each one of the following categories list each source 14 19 which produces more than \$1,000 in annual gross income, if the 14 20 revenue produced by the source was subject to federal or state 14 21 income taxes last year. List the nature or type of each 14 22 company, business, financial institution, corporation,

14 14 14 14 14 14	24 25 26 27 28 29 30	partnership, or other entity which produces more than \$1,000 of annual gross income. Neither the amount of income produced nor value of the holding is required to be listed in any of the items.  A. Securities: State the nature of the business of any company in which you hold stock, bonds, or other pecuniary interests that generate more than \$1,000 in annual gross income. Income generated by multiple holdings in a single
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15 15 15 15 15 15	3 4 5 6 7 8	B. Instruments of Financial Institutions: State the types of institutions in which you hold financial instruments, such as certificates of deposit, savings accounts, etc., that produce annual gross income in excess of \$1,000, e.g., banks, savings and loans, or credit unions.
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15 15 15 15 15	15 16 17 18	C. Trusts: State the nature or type of any trust from which you receive more than \$1,000 of gross income annually.
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16	8 9 10 11	F. Other Income Categories Specified in State and Federal Income Tax Regulations.
16 16 16	12 13 14	
16 16	17	(Signature of Filer) (Date) LSB 1534HC 83 tm/rj/14